

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
MARSHALL DIVISION**

EXITEXCHANGE CORP

Plaintiff,

vs.

FRIENDFINDER NETWORKS, INC

Defendant.

§
§
§
§
§
§

Case No. 2:13-cv-00396-JRG

JURY TRIAL DEMANDED

**PLAINTIFF EXITEXCHANGE'S SURREPLY TO DEFENDANT FRIENDFINDER
NETWORKS, INC.'S REPLY RE ITS MOTION TO DISMISS PURSUANT TO
FEDERAL RULE OF CIVIL PROCEDURE 12(b)(6)**

This matter comes before the Court on the motion (Dkt. 67) of Defendant FriendFinder Network, Inc. (hereinafter “Defendant”) to dismiss the Complaint of Plaintiff ExitExchange Corp. (hereinafter “ExitExchange”).

ExitExchange has considered the reply filed by Defendant, and notes that Defendant states that the “effective date” of the Confirmation Order is December 20, 2013, not December 16, 2013. As Plaintiff’s response made clear, Plaintiff is willing to limit its request for damages and relief to Defendant’s post-confirmation activity, and Plaintiff is willing to agree that the effective date is December 20, 2013.

Given such a representation, there does not seem to be any need to require Plaintiff to file a new, separate complaint containing this limitation, rather than simply continuing the case as filed subject to this limitation. Plaintiff defers to the wishes of the Court on this matter and will submit an amended complaint if the Court so wishes.

Respectfully submitted,

Dated: March 20, 2014

By: /s/ Elizabeth L. DeRieux
Susan D. Pitchford
(*Admitted Pro Hac Vice*)
Kevin L. Russell
(*To Be Admitted Pro Hac Vice*)
CHERNOFF VILHAUER LLP
601 SW Second Avenue
Suite 1600
Portland, OR 97204
Telephone: (503) 227-5631
Facsimile: (503) 278-4373
Email: sdp@chernofflaw.com
Email: Kevin@chernofflaw.com

S. Calvin Capshaw

1 - PLAINTIFF EXITEXCHANGE’S SURREPLY
TO DEFENDANT’S MOTION TO DISMISS

State Bar No. 03783900
Elizabeth L. DeRieux
State Bar No. 05770585
Jeffrey D. Rambin
State Bar No. 00791478
CAPSHAW DERIEUX, L.L.P.
114 E. Commerce Ave.
Gladewater, Texas 75647
Telephone: (903) 236-9800
Facsimile: (903) 236-8787
Email: ccapshaw@capshawlaw.com
Email: ederieux@capshawlaw.com
Email: jrambin@capshawlaw.com

ATTORNEYS FOR PLAINTIFF
EXITEXCHANGE, CORP.

CERTIFICATE OF SERVICE

The undersigned hereby certifies that all counsel of record who are deemed to have consented to electronic service are being served this 20th day of March, 2014, with a copy of this document via electronic mail, facsimile transmission and/or first class mail on this same date.

/s/ Elizabeth L. DeRieux